

JASON R. BARTLETT (SBN #214530)
jbartlett@mkwllp.com
JASON A. CROTTY (SBN #196036)
jcrotty@mkwllp.com
MAURIEL KAPOUYTIAN WOODS LLP
450 Sansome Street, Suite 1005
San Francisco, California 94111
Telephone: (415) 738 - 6334
Facsimile: (415) 738 - 2315

Attorneys for Defendants,
MONTAGE TECHNOLOGY, INC. and
MONTAGE TECHNOLOGY CO., LTD.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NETLIST, INC.,)	Case No.: 5:22-mc-80337
)	
Plaintiff,)	ZHOU DECLARATION IN SUPPORT
)	OF OPPOSITION TO NETLIST'S
v.)	MOTION TO COMPEL COMPLIANCE
)	OF SUBPOENA
MONTAGE TECHNOLOGY, INC. and)	
MONTAGE TECHNOLOGY CO., LTD.,)	Hearing Date: January 31, 2023
)	Time: 10:00 AM
Defendants.)	Mag. Virginia K. DeMarchi
)	

1 I, Qin Zhou, declare as follows.

2 1. I am Senior Legal Manager at Montage Technology Co., Ltd. in Shanghai, China,
3 where I have been employed since 2017. If called upon to testify I would competently testify as
4 follows based on my personal knowledge.

5 2. I am familiar with the relationships between the various Montage corporate
6 entities. I am also familiar with the development and management of confidential and
7 proprietary trade secret information within Montage, and I am familiar with the technical
8 information that Montage considers to be trade secrets.

9 3. Founded in 2004, Montage Technology Co., Ltd. is a leading IC design company
10 dedicated to providing high-performance, low-power IC solutions for cloud computing and data
11 center markets. Montage Technology Co., Ltd. is incorporated in China and has its headquarters
12 at 15/F, 181 Caobao Road, Montage Circle, Xuhui District, Shanghai 200233, China.

13 4. Montage Technology Co., Ltd. does not conduct business in the California. It is
14 not licensed to conduct business in California. It does not own real property in California and
15 has no facilities in California. Nor does it have any bank accounts or even a post office box in
16 California. It also does not have employees in California.

17 5. Montage Technology Inc. ("Montage CA") is a subsidiary of Montage
18 Technology Co., Ltd. Montage CA supports Montage Technology Co., Ltd. by providing
19 marketing and pre-sale and post-sale services, primarily in the United States market, from its
20 location in San Jose, California. Montage CA is separately incorporated, has its own facilities,
21 has its own employees (though it shares some directors and executives with Montage
22 Technology Co., Ltd.), maintains its own books, makes its own day-to-day decisions, and the
23 companies maintain corporate formalities (*e.g.*, funds are not co-mingled, etc.).

24 6. The relationship between Montage Technology Co., Ltd. and Montage CA is
25 governed by a Service Agreement between the two companies. (I am informed that the Service
26 Agreement was produced to Netlist and has been labelled as Ex. 31.) Pursuant to Art. 19 of the
27 Service Agreement, Montage CA is an independent contractor of Montage Technology Co., Ltd.
28 and the parties are not agents of each other, nor can they dictate the day-to-day operations of the

1 other. Montage CA does not have a right to request documents from Montage Technology Co.,
 2 Ltd. and Montage Technology Co., Ltd. considers some documents to be proprietary even within
 3 the Montage corporate family.

4 7. Montage CA possesses certain technical product documentation to perform its
 5 marketing and pre-sale and post-sale services functions, but all research and development and
 6 most worldwide marketing and sales are done in China by Montage Technology Co., Ltd.

7 8. My understanding is that the following products (“Montage Products”) have been
 8 provided to Samsung for use in Samsung DDR4 LRDIMMs and DDR5 DIMMs:

- 9 • M88DR4DB02PH3;
- 10 • M88DR4DB02PH2-T;
- 11 • M88DDR4DB02A1-T;
- 12 • M88DDR4RCD02A0-T;
- 13 • M88DR4RCD02PH1-T;
- 14 • M88DR5RCD01B2-T.

15 9. As to the Montage Products, only Montage Technology Co., Ltd., in China has
 16 detailed hardware design information, which is considered proprietary even within Montage.
 17 Montage Technology Co., Ltd., does not share that information with Montage CA in San Jose.
 18 If Montage CA requested detailed hardware design information and/or source code, it would not
 19 be provided by Montage Technology Co., Ltd.

20 10. Montage CA is not involved in the design and engineering of Montage products,
 21 including the Montage Products.

22 11. Montage Technology Co., Ltd. manages the corporate relationship with Samsung
 23 (in Seoul). Transactions with Samsung do not include U.S.-based Montage entities — none of
 24 the parties are in California and the transactions do not occur in California.

25 12. The technical information that is shared with Montage CA (*e.g.*, non-confidential
 26 flyers and confidential datasheets) relates to its functions as a subsidiary of Montage Technology
 27 Co., Ltd. Montage CA does not have research and development or other developmental
 28 documentation, as all design and engineering is performed in China. In particular, Montage CA

1 does not have technical documentation regarding *how* Montage products are compliant with
2 JEDEC specifications. Nor does it possess source code for the Montage Products. As indicated
3 above, that information is considered highly proprietary and it is not shared by Montage
4 Technology Co., Ltd.

5 13. Montage Technology Co., Ltd. invests substantially in researching, designing, and
6 developing semiconductor products. Its products are valuable because the underlying technology
7 is confidential and is difficult to duplicate without substantial investment. The technology in
8 Montage Products at issue is highly confidential and proprietary. Montage's technology is one
9 of its most valuable assets.

10 14. Montage Technology Co., Ltd. deems the Montage Product datasheets
11 confidential, and public disclosure would cause significant competitive damage to Montage, as
12 they include proprietary product information and trade secrets. Montage CA produced these
13 datasheets to Netlist pursuant to a protective order. Montage Technology Co., Ltd. also deems
14 detailed technical information regarding the Montage Products confidential and disclosure would
15 cause significant competitive damage to Montage. Based on my experience, technical
16 information such as this is considered proprietary throughout the industry.

17 15. The Montage Products are active in that they are currently being sold, making
18 confidential information relating to them particularly commercially sensitive. The Montage
19 Products at issue are a valuable part of the overall Montage product line.

20 16. As indicated above, Montage CA does not have access to the source code for the
21 Montage Products. Montage Technology Co., Ltd. considers source code for its products highly
22 proprietary and trade secret, as source code details the programming and operation of Montage
23 Products. Source code is not made public and is not provided to Montage's customers or
24 potential customers.


25 17. Source code is maintained on servers in Shanghai, and it is tightly controlled
26 within Montage Technology Co., Ltd. Disclosure would cause significant competitive damage
27 to Montage Technology Co., Ltd. and its affiliates. Access to such source code is limited to
28 specific employees of Montage Technology Co., Ltd. It would be a burdensome and time-

1 consuming task for Montage Technology Co., Ltd. to review the code for all the relevant
2 products to identify the tiny subset that might conceivably be relevant to the underlying
3 infringement issues.

4 18. There may be legal obstacles to producing information pursuant to a third-party
5 subpoena issued under U.S. law, rather than via international treaty or diplomatic channels.
6 Chinese law may preclude Montage Technology Co., Ltd. from complying with discovery
7 requests that are not sought via the Hague Evidence Convention. Specifically, Article 284 of the
8 Chinese Civil Procedure Law (formerly Article 277) may require that discovery requests be
9 made via international treaty or diplomatic channels. If the Court were to find that Montage
10 Technology Co., Ltd. was properly served and that it was subject to jurisdiction in California,
11 Montage Technology Co., Ltd. would have to consult with Chinese counsel to determine its
12 obligations under Article 284 and/or other Chinese laws, including the Export Control law,
13 which might include applying for certain license(s) from the Chinese government.

14 I declare under penalty of perjury under the laws of the United States that the foregoing is
15 true and correct.

16 Executed this 9th day of January 2023, at Shanghai, China.

17 
18 _____
19 Qin Zhou